

REMARKS

The Office Action dated August 14, 2003 has been received and carefully considered. In response, applicant hereby confirms the election made by its attorney on July 22, 2003. In this respect, applicant has elected the species shown in FIGS. 1-9 corresponding with claims 1-32 and 39-45. Applicant confirms that claims 33-38 and 46-47 are withdrawn from further consideration by the examiner.

Turning to the elected claims, applicant acknowledges with appreciation the allowability of claims 3-29 if rewritten in independent form; the allowability of claim 39 upon correcting the minor informalities and the allowability of claims 43-45 if rewritten to overcome the rejections under 35 U.S.C. § 112, second paragraph, and if rewritten in independent form. Applicant, by this Amendment, has rewritten claims 3-29 and 43-45 in independent form and has addressed the formalities and rejections under Section 112. Accordingly, claims 3-29, 39 and 43-45 are considered to be in allowable form. With respect to claims 2, 30-32 and 41, applicant respectfully submits that these claims also clearly define an embodiment of this invention under 35 U.S.C. § 112 and patentably distinguish from the cited references under 35 U.S.C. §§ 102 and 103 and are, therefore, also allowable. Accordingly, reconsideration and allowance is respectfully requested.

The Abstract of the Disclosure was objected to for the word "along" in the last sentence. Applicant has amended the Abstract of the Disclosure to correct this typographical error. In addition, applicant has found several other formalities which have been addressed by this amendment.

Applicant respectfully submits the amendments do not include new matter. Accordingly, applicant requests that this objection be withdrawn.

Claim 39 was objected to for an informality. The examiner has helpfully pointed out an informality in line 6 of this claim which has been addressed by this Amendment. Accordingly, claim 39 is deemed to be in allowable form.

Claims 41-45 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for the use of the term cooperable in canceled claim 40. Applicant, by this Amendment, has replaced this term and, therefore, requests that this rejection be withdrawn. With respect to claims 43-45, these claims were deemed to be allowable upon rewriting these claims in independent form and addressing the Section 112 rejection. Applicant has amended claim 43 to independent form and has addressed the Section 112 rejection. Claims 44 and 45 are dependent from new independent claim 43. Accordingly, claims 43-45 are deemed to be in allowable form.

Claims 2, 30-32 and 41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Nagata JP 58183570 A in view of Smith No. GB 2 332 415. Applicant respectfully submits that Nagata in view of Smith fails to disclose the limitations of these claims. Claim 2 recites a payout device for controlling the payout of wire from a coil of wire which includes three rings. The first and second ring resting on the top of the wire coil such that a continuous generally circular gap is formed between the two rings wherein the third ring overlies the first and second rings. Neither Nagata nor Smith disclose or make obvious such a payout. In this respect, Nagata discloses only the use of two rings and Smith discloses only the use of cone shaped braking device. Neither disclose

the use of three rings. Further, the neither reference suggests the modification of either braking device by adding a third ring. There is also no suggestion to combine the two rings of Nagata with the braking cone of Smith. The combination would produce a device that failed to work as intended. Furthermore, even if the combination was made, the device would not create the recited three break ring structure with the third ring partly covering the recited gap. Accordingly, claim 2 patentably distinguishes from Nagata and Smith and is deemed allowable. Claims 30-32 are dependent from independent claim 2 and are deemed allowable for at least the same reasons.

Claim 41 patentably distinguishes from Nagata in view of Smith by reciting a second ring which overlies the first ring. Nagata fails to disclose or make obvious rings which overlie one another. Furthermore, Smith fails to overcome the shortcomings of Nagata for the reasons set forth above with respect to claim 2. Again, there is no suggestion to make the combination of Nagata and Smith and, in fact, the combination would make the respective brake ring devices inoperable. Accordingly, claim 41 is also deemed to be in allowable form.

With respect to the comments by the examiner, applicant respectfully submits that Smith fails to disclose or teach a third ring in that Smith utilizes a unified brake ring structure as is best seen in FIG. 1 of Smith. As to claim 41, applicant respectfully submits that Nagata and Smith fail to disclose one ring which overlies a second ring.

By this Amendment, applicant has cancelled claims 1, 40 and 42; and claims 33-38, 46 and 47 have been withdrawn from consideration. Claims 3-29 were considered to be allowable if rewritten in independent form which applicant has done by this Amendment. With respect to claim

39, applicant has corrected the informality which the examiner has helpfully pointed out and applicant has amended claims 43-45 to address the rejection under Section 112 and to put these claims in independent form. Accordingly, claims 3-29, 39 and 43-45 are deemed to be in allowable form.

Claims 2, 30-32 and 41 which were rejected under Section 103, applicant respectfully submits that there is no suggestion to make the combination of Nagata and Smith and further, if these two references were combined, which is improper, they would fail to disclose or make obvious the limitations of these claims and therefore, claims 2, 30-32 and 41 are also deemed to be allowable. Accordingly, reconsideration and allowance are respectfully requested.

Respectfully submitted,

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